

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 98-75

September 15, 1998

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Administrative Issues Related to Trials

Scheduling of Trials

We have been advised that a number of Regions have been scheduling most of their trials in a given week for Monday notwithstanding that there is time available in the week to separate the trials within the week so that a single judge could handle two or more of them. If settlements do not alter the situation, scheduling most of the trials for Mondays necessitates assigning two or more judges to handle cases which one judge might have covered. As their numbers decline, there may not be enough judges to cover all the trials and there may be a need to postpone some that otherwise could have been heard. Spacing out the trials throughout the week can lessen the probability that this will occur.

Similarly, when cases settle prior to trial, Regions should attempt to reschedule the remaining trials set to be heard during that week so as to enable one judge to handle the remaining cases without a lengthy hiatus. This would occur, for example, when the remaining cases are a one day Monday trial and a Thursday trial in the same or nearby city.

Case Estimates

The estimates as to trial length that the Division of Judges receives from the Regions continue to turn out to be inaccurate on a frequent basis. Estimating the duration of a trial is obviously problematic. To the maximum practicable, however, Regions should strive for accurate estimates. To assist in refining estimates, the trial attorneys should discuss this matter with respondents' attorneys during their initial pretrial conversations and the Division of Judges should be informed of any revised estimates.

ALJ assignments are usually based upon a consideration of the number and length of cases already assigned to each judge. A Region's estimate of a 2-3 day hearing which will actually be more likely 5-6 days might well affect the assignment. While the ALJ should get a revised estimate from a conference call, (1) sometimes such calls cannot be conducted and (2) by the time the ALJ learns of the change it may be too late to change the assignment. Thus, Regions should advise the Division of Judges of any change in the estimate as soon as possible.

One apparent problem is that estimates are not updated when there are amendments or consolidations. It is important for Regions to revise the estimates, if warranted, in these circumstances.

Notification of Trial Cancellation

As soon as possible, Regions should notify the front office of the Division of Judges that a case is being taken off the trial calendar. In the past, such notification frequently has been given informally to a Chief or other ALJ. In the interest of uniformity and certainty, a system has been instituted whereby cases are not officially removed from the docket until a call is made from the Regions to one of the clericals in the Division of Judges' front office.

Weekend Emergencies

In the past there have been occasions when Regions have needed to contact the Division of Judges, and vice versa, over the weekend. To facilitate such contacts, set forth below are the relevant home telephone numbers. Please furnish the appropriate ALJ office with home numbers of the Regional Director and Regional Attorney.

D.C.

Judge Giannasi (301) 229-0136

Judge Gross (202) 244-0113

Judge Scully (202) 363-0236

Atlanta

Judge Cates (404) 939-2753

New York

Judge Biblowitz (914) 967-4890

San Francisco

Judge Schmidt (415) 586-4353

Forwarding Pleadings

The Division of Judges occasionally discovers that its case files do not contain all of the pleadings which have issued. Please ensure that all documents are timely transmitted.

Preparation of Backpay Figures

On occasion, the Regions have not computed, in preparation for settlement conference calls, the amount of backpay owed the alleged discriminatees. This lack of backpay information makes serious settlement discussions impossible. Accordingly, please ensure that the backpay figures are computed prior to any settlement conferences.

Any questions concerning this memorandum should be addressed to your Assistant General Counsel, Deputy Assistant General Counsel, or to me.

R.A.S.

cc: NLRBU

MEMORANDUM OM 98-75